



March 11, 2022

Gina Stephens
Senior Policy Advisor
Financial Services Policy Division
Ministry of Finance
95 Grosvenor St. – 4th Floor
Toronto, ON M7A 1Y8
Gina.Stephens@ontario.ca

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Thera Medcof
Senior Manager, Mortgage Brokers Policy
Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6
Thera.Medcof@fsrao.ca

Dear Ms. Stephens and Ms. Medcof:

Re: Proposal # 22-MOF002 (Amendments to O. Reg. 187/07 and O. Reg. 409/07 under the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (MBLAA)),
and
FSRA Consultation ID 2022-002 (Consultation on proposed new licensing requirements guidance for mortgage agents and brokers)

Thank you for consulting Mortgage Professionals Canada (MPC) regarding proposed new licensing requirements for mortgage brokers and agents in Ontario. In general, MPC supports the Ontario Ministry of Finance (“Ministry”) and the Financial Services Regulatory Authority of Ontario (“FSRA”) as the Ontario Government works to implement the recommendations MPC and other senior stakeholders made to the Ministry in 2019 as part of the review of the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (MBLAA).

MPC appreciates being part of the MBLAA review process from the onset, and is pleased [that its recommendations were included](#) in the 2019 report¹ submitted to then-Minister of Finance Rod Phillips by Mr. Stan Cho, then-Parliamentary Assistant to the Minister of Finance, and his immediate predecessor, Mr. Doug Downey. Reducing red tape and regulatory burden without compromising consumer protections remain shared priorities of our members and the government. Regarding education, however, in our [January 10, 2019 letter to the Ministry](#) we also noted the need to improve education and licensing standards for mortgage professionals in Ontario, in order to enhance the reputation of the industry in the eyes of consumers and regulators, and to ensure that veteran

¹ *Protecting and Modernizing Ontario’s Mortgage Broker Industry* - Report to The Minister of Finance on the Legislative Review of the Mortgage Brokerages, Lenders and Administrators Act, 2006 - September 2019
<https://www.fin.gov.on.ca/en/consultations/mblaa-report-september2019.pdf>



licensed practitioners were not relying on their tenure in the industry as a measure of proportional level of expertise. From our January 2019 letter:

Education

- We suggest that an Ontario Secondary School Diploma or its domestic or international equivalent be the minimum prerequisite for any licensing.
- For any new added licence classes, we recommend that specialized education requirements be part of the licensing qualification. Additionally, an experiential or practical skills component should be incorporated into the education process and be mandated for licensure, to ensure a minimum level of competency and proficiency.
- We feel that a biannual continuing education requirement is sufficient. An annual requirement would be an onerous burden on licensees and regulators.
- We recommend that testing requirements in continuing education be made more robust, in order to better support learning objectives. Again, a practical skills component would be of value.

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The aforementioned MBLAA review report eventually incorporated some of our proposals regarding educational standards. From the 2019 report:

Recommendation #5:

Raising and Streamlining Educational and Professional Standards for Agents and Brokers

Many stakeholders advocated for improvements to the mandatory education requirements for mortgage agents and brokers, including broadening and deepening the subject areas covered by these courses, as well as creating meaningful, “right-sized” education that focuses on teaching the skills that will properly prepare agents and brokers for their career within the mortgage broker sector. Similarly, stakeholders suggested specialized licensing education for brokers and agents who deal and trade in areas of practice that require added knowledge and additional skills.

These innovative suggestions for improvements to industry education represent the industry’s continued emphasis on raising standards for the mortgage brokering profession in Ontario.

Today, we are pleased to see progress on this recommendation. We are supportive of the objectives your proposed changes aim to deliver, and are generally supportive of the proposed new licensing classes, Mortgage agent level 1 (MAL 1), Mortgage agent level 2 (MAL 2), and Mortgage broker licence (MBL), [as posted by FSRA](#):



New licensing classes

It is proposed that effective **April 1, 2023**, the following new licence classes would be established under sections 2, 5, 5.0.1 and 5.0.2 of O. Reg. 409/07 for individuals seeking a mortgage agent or broker licence in Ontario:

- **Mortgage agent level 1 licence** authorizes licensees to deal and trade² in mortgages provided by:
 - financial institutions, as defined in section 1 of the MBLAA
 - [lenders](#)  approved by Canada Mortgage and Housing Corporation ("CMHC") under the [National Housing Act](#)  ("NHA")
- **Mortgage agent level 2 licence** authorizes licensees to deal and trade in mortgages provided by:
 - financial institutions, as defined in section 1 of the MBLAA
 - lenders approved by CMHC under the NHA
 - all other lenders, such as mortgage investment companies, syndicates, private individuals, agents, brokers, and brokerages
- **Mortgage broker licence** authorizes licensees to deal and trade in mortgages provided by:
 - financial institutions, as defined in section 1 of the MBLAA
 - lenders approved by CMHC under the NHA
 - all other lenders, such as mortgage investment companies, syndicates, private individuals, and brokerages

Mortgage brokers can supervise mortgage agents (levels 1 and 2) and can be appointed as the principal broker for a brokerage.

The stakeholder roundtable the Ministry and FSRA hosted March 1, 2022 allowed for greater discussion with you and fellow stakeholders on the proposed changes. Important points were made by stakeholders, and were acknowledged and deliberated on by Ministry and FSRA representatives. MPC also appreciates our subsequent discussions with you on concerns raised. Our comments follow.

MAL 1 and Mortgage Investment Corporations (MIC)

In the draft regulation introducing the new license classes, holders of MAL 1 would not be permitted to arrange a mortgage through a Mortgage Investment Corporation (MIC). MPC would not characterize MIC-issued mortgages as 'private lending' since the MIC, through its normal operations, manages the investor relationships and ensures diversification of fund placements in mortgage investments on the investors' behalf. Many of the risks associated with private lending that the education and certification through the introduction of the MAL 2 are not present with MIC loans.

MPC acknowledged the challenge presented in categorizing the various forms of MICs, given that they are generally privately held businesses and not subject to disclosure requirements. It is quite possible that smaller MICs are made up of very few investors and the diversification of funds is not practically possible. That said, there are many very sizeable MIC operations in Canada that fulfil an important function in the marketplace. The requirement to hold a MAL 2 to arrange a loan through a MIC may create unintended limitations on access to suitable products for some borrowers, especially if the larger, established MICs are categorized alongside the small. MIC classification is not an area MPC feels confident to offer specific recommendations on, but we do recommend some consideration be given to any submissions received by the Canadian Alternative Mortgage Lenders Association (CAMLA), and any recommendations they can provide in this regard.



Challenge Exam Concerns

We note that MPC already mentioned this concern with you informally but wish to note it here for the record, with the expectation that FSRA is already working to address it. The “Challenge Exam Option”, as described in [Guidance No. MB0047INT](#) is being “offered to agents and brokers who have five or more years of continuous licensing experience”. Additionally, the guidance states:

The Challenge Exam:

- is available to those who believe they have the experience and competencies reflected in the new education requirement to be a mortgage agent level 2 or mortgage broker
- may only be attempted once; individuals who do not pass the Challenge Exam must complete a Private Mortgages Course

The issue we raised relates to the deadline to take the Challenge Exam (Exam). Table 2, “Transition Period Requirements” for those eligible to take the Exam, states the following:

| Table 2: Transition Period Requirements – April 1, 2023 – March 31, 2024 | | |
|--|-----------------|--|
| Appendix 2 provides examples of how the new requirements will be applied to different scenarios. | | |
| Licensing history | Current licence | Requirement for new licence |
| Individuals with five or more years of continuous licensing as of April 1, 2023. | Mortgage agent | To transition to mortgage agent level 2, individuals must: <ul style="list-style-type: none"> • complete the Private Mortgages Course by March 31, 2024 or • pass the Challenge Exam by March 31, 2024. |
| | Mortgage broker | To maintain their mortgage broker licence, individuals must: <ul style="list-style-type: none"> • complete the Private Mortgages Course by March 31, 2024 or • pass the Challenge Exam by March 31, 2024. • Brokers who do not meet the new education requirements will transition to the mortgage agent level 1 licence upon renewal on April 1, 2024 and cannot carry out activities as a principal broker. |

Based on this, the scenario envisioned is that of a busy industry veteran, a broker, who feels confident to take the Challenge Exam without necessary preparation, and at the last possible moment. That person with greater than five years, perhaps decades, of experience in mortgage brokering likely also has limited recent experience in test taking. If this person, a broker, was to take the Exam in, say, March 2024 and failed to pass, that person then “cannot carry out activities as a principal broker” until



completing the Private Mortgage Course. This person and the brokerage could then be in limbo, losing her/his mortgage broker licence and transitioning all the way back to MAL 1. We understand this does not excuse such an experienced broker or agent from not properly preparing, but we still feel there should be a safeguard to prevent this. We suggest that the deadline to take the Challenge Exam be at least three months earlier than the “Final date to complete new education requirements”, whenever the final confirmed deadlines for each might be.

Federally regulated financial institutions and ongoing licensing exemptions for their employees

“Brokering is brokering.”

We said this in [our January 2019 MBLAA review submission](#) as part of our suggestion that we believed the province needed to consider greater oversight of employees of federally regulated financial institutions who place mortgage products with entities other than their employer, as consumers are not clearly protected under either the Bank Act or MBLAA. Many of our members believe that such mortgage brokering also requires licensing, and its practitioners should be included for licensing under these proposals.

Conclusion

Again, we are appreciative of the efforts made by the Ministry and FSRA as they undertake changes to educational and professional standards for mortgage brokers and agents, and again thank you for your thorough outreach to MPC and other industry participants. We trust that these comments will be well received, and we look forward to further conversations through this process. Please feel free to reach out to me at the coordinates below, or our Director of Government Relations and Regulatory Affairs, J.P. Boutros, at jpboutros@mpc.ca.

Sincerely,

Paul Taylor
President and CEO
Mortgage Professionals Canada
2005 Sheppard Avenue East Suite 401
Toronto, ON M2J 5B4
ptaylor@mpc.ca



About Mortgage Professionals Canada

Mortgage Professionals Canada (MPC) is Canada's mortgage industry association. Founded in 1994, MPC represents over 14,500 individuals and over 1,000 companies, including mortgage brokerages, lenders, insurers and industry service providers. The mortgage broker channel originates greater than 35% of all mortgages in Canada and 55% for first-time buyers, representing approximately \$110 billion dollars in annual economic activity. Our members make up the largest and most respected network of mortgage professionals in Canada, and MPC represents their interests to government, regulators, media and consumers. We are dedicated to maintaining a high standard of industry ethics, consumer protection and best practices.